REMARKS

In the non-final Office Action dated June 25, 2008, the following rejections are noted: claims 1, 3, 6, and 8-14 stand rejected under 35 U.S.C. § 103(a) over the Vogel reference (U.S. Patent No. 6,804,262) in view of the Desai reference (U.S. Pat. 7,139,247); and claims 4-5 and 7 stand rejected under 35 U.S.C. § 103(a) over the Vogel reference in view of the Desai reference and further in view of the Furuta reference (U.S. Patent Pub.. 2002/0073433).

Applicant respectfully traverses the rejections for failing to show correspondence to each claim limitation and for lack of motivation to combine. Respectfully, the rejection relies upon an improper interpretation of the Vogel reference. In particular, Applicant's claimed invention includes limitations directed to first performing a fast scan and then performing a slow scan if no channel is acquired in the fast scan. Vogel teaches the use of a first scan procedure (FIG. 6) and a second scan procedure (FIG. 7). The rejection relies upon the procedure of FIG. 6 to correspond to the claimed fast scan and the procedure of FIG. 7 to correspond to the slow scan procedure. Respectfully, the second scan procedure of Vogel is only implemented for potential channels added to the channel plan due to positive results of the first scan (see, e.g., col. 13, line 53 – col. 14, line 37). Vogel teaches that the power measurements of the first scan are used to select channels for a subsequent scan. Thus, for channels not found in the first scan, the second scan would not be performed. This does not correspond to the claim limitations directed to performing a slow scan if a channel is not acquired in the first scan. Indeed, it would appear that Vogel only implements the second level of scanning for channels identified in the first scan.

Notwithstanding, Applicant has amended claim 1 to clarify these and other aspects of the claimed invention. For example, claim 1 includes limitations directed toward attempting to acquire a channel during the fast scan and toward performing the slow scan in response to not acquiring a channel during the slow scan. It should be apparent from the teachings of Vogel that the second scan (FIG. 7) is only performed for those channels for which the first scan returns a positive result. It should be noted that Vogel appears to teach that the second scan (FIG. 7) is necessarily implemented to acquire a channel (*i.e.*, a channel is not acquired during the first scan (FIG. 6) alone).

Thus, unlike disclosed embodiments of Applicant's invention, Vogel does not provide an opportunity to completely avoid a slow scan step while still acquiring a channel. Accordingly, Vogel does not teach correspondence to various limitations, including those directed to attempting to acquire a signal during the fast scan and to implementing a slow scan in response to not acquiring a signal during the fast scan.

Respectfully, the combination of Desai with Vogel does not cure the deficiencies of Vogel. The recited combination appears to be a replacement of a channel power measurement with that of an AGC lock state. The remaining functionality taught by Vogel would apparently remain substantially the same. Accordingly, the rejections are improper.

Moreover, the combination of the Vogel and Desai references is improper because it modifies a principal aspect of the Vogel reference. M.P.E.P. 2143.01 indicates that "(i)f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." As stated in Vogel (Summary of Invention), principal aspects of the invention are directed toward the use of a plurality of power measurements to selectively receive target signal components. The proposed combination, however, replaces this use of power measurements with an AGC lock component. Respectfully, the M.P.E.P. and case law are clear that it is not proper to replace the primary aspects of a reference with those of another reference. Accordingly, the rejection is improper and the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Applicant further notes that the addition of the Furuta reference fails to cure the above deficiencies. For example, the Office Action only relies upon the Furuta reference to show alleged correspondence only to various dependent claim limitations.

For at least the aforementioned reasons, Applicant respectfully submits that the rejections are improper and requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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